

**Town of Middletown  
Planning Department**

**350 East Main Rd., Middletown RI 02842 (401) 849-4027**

**PLANNING BOARD MINUTES**

**December 10, 2008**

**Board members present:**

**Art Weber, Chairman   Ron Wolanski, Town Planner  
Jan Eckhart, Vice Chairman   Frank Holbrook, Town Solicitor  
Gladys Lavine   Russell Jackson, Assistant Town Solicitor  
Richard Adams**

**Members absent:**

**Audrey Rearick  
Frank Forgue  
Betty Jane Owen**

**The meeting was called to order at 6:30 pm.**

**Minutes:**

**Motion by Mr. Adams, seconded by Mr. Eckhart, to approve the minutes of the November 12, 2008 regular meeting. Vote: 4-0-0.**

## **1. Correspondence**

**Motion by Mr. Adams, seconded by Mr. Eckhart, to except the following correspondence:**

**A. Memo from Ronald M. Wolanski, Chairman, Technical Review Committee, dated November 26, 2008, re: Gunvant Patel (Econo Lodge), Proposed construction of outdoor swimming pool and patio, 1359 West Main Rd., Plat 114, Lot 4.**

**B. Copy of Planning Board letter to the editor of the Providence Journal, dated November 12, 2008, re: November 9, 2008 editorial: “Crashing into Newport”**

**C. Transmittal of documents from Richard Neidich & Sam Howell, dated November 12, 2008, re: Gallipeau Proposed Saltwood Farm 14-lot Subdivision.**

**D. Letter from Peter Gallipeau, dated December 1, 2008, re: Saltwood Farm Master Plan – Response to Mr. Neidich’s comments.**

**E. Letter from Peter Gallipeau, dated December 1, 2008, re: Saltwood Farm Master Plan – Response to Mr. Brown’s comments.**

**F. Letter from Peter Gallipeau, dated December 1, 2008, re: Saltwood Farm Master Plan – View impact of development as constituting a “nuisance”**

**G. Letter from Peter Gallipeau, dated December 1, 2008, re: Saltwood Farm Master Plan – Use of Conventional R-40 design**

**H. Petition submitted by Peter Gallipeau, re: Saltwood Farm Master Plan.**

**I. Memo from DPW Director, dated November 17, 2008, re: Peter Gallipeau, Saltwood Farm Subdivision Master Plan**

**Vote: 4-0-0**

## **2. Old Business**

**A. Karmic LLC, 6-lot Subdivision, Request for 1-year extension of Final Subdivision Plan approval, Aquidneck Ave. & Prospect Ave. Plat 120 Lot 46**

**There was no one present to represent the applicant.**

**Members of the board indicated that there was no concern with the request.**

**Motion by Mr. Adams, seconded by Mr. Eckhart, to grant a one-year extension of the final plan approval. Vote: 4-0-0.**

**B. George P. Lewis, Jr., 4-lot Subdivision, Request for 6-month extension of Final Subdivision Plan approval, Bailey Ave. & Trout Drive, Plat 125, Lot 935**

**Mr. Holbrook recused himself from the discussion. Mr. Jackson served as solicitor for this item.**

**Attorney Brian Bardorf represented the applicant.**

**Mr. Weber recognized Peter Gallipeau, a resident of Sachuest Drive.**

**Mr. Gallipeau stated that the board should consider denying the request due to concerns over the design of the approved plan, and the processed that allowed the plan to be considered as minor subdivision even though the applicant has created several additional lots over several years. He also noted that the property is assessed under the farm, forest, and open space tax program. The Board should take this opportunity reconsider the plan.**

**Mr. Bardorf stated his objection to the discussion. The plan has been approved and the applicant is seeking an extension to address the**

remaining conditions of approval. Mr. Gallipeau wishes to reopen the review of the subdivision plan as a means to satisfy his desire to access public water through the Lewis property.

Mr. Gallipeau began to rebut Mr. Bardorf's statement.

Mr. Weber stated that the applicant is simply seeking a time extension for an approved plan. The board would not accept testimony relating to the merits of the board's prior decision to approve the plan.

Mr. Gallipeau asked that the record show that he was not permitted to complete his statement.

Motion by Mr. Adams, seconded by Ms. Lavine, to grant a six-month extension of the final plan approval. Vote: 4-0-0.

C. Omni Land Company. – 9-lot Subdivision, Request for extension of Final Subdivision Plan approval, West Main Rd., Plat 111, Lots 8, 9, 9A, 10

Attorney Robert M. Silva represented the applicant. He stated that the current owners of the property continue to work toward satisfying the remaining conditions of approval, which will allow for recording and development of the approved plan. An additional six-month extension is requested.

Motion by Mr. Eckhart, seconded by Ms. Lavine, to grant a six-month extension of the final plan approval. Vote: 4-0-0.

D. Request of the Town Council for an advisory recommendation on a proposal to amend the Middletown Zoning Ordinance Section 603 regarding dimensional regulations in the Office Park (OP) zoning district.

Mr. Weber invited Attorney Gregory Fater, representing the

proponents of the proposed amendment, to present any information he would like to the Board.

Mr. Fater reviewed the purpose of the proposal. He stated that the residential abbuteres to the Aquidneck Corporate Park are concerned that the new development under the current regulations would adversely impact their neighborhood. He noted that abutters where not notified when the office park rezone to Office Park (OP) in 2000. His clients want to have stronger control over the type of development in the park. Relying on existing regulations requires enforcement, which takes time. Mr Fater noted that the OP district building height limit is greater than for some similar districts in other towns. The town has changed zoning in other parts of town in an attempt to reduce impacts on abutting residential development. He referenced a stated contained in the 2005 PARE Corp. bailout study of the park, which stated that the town should take into account the impacts of increased development on abutting neighborhoods. He stated that both the 2005 PARE study and the report provided by PARE to analyze this proposed amendment cite parking requirements as a limiting factor affecting buildout potential. He suggested that the town consider reducing the parking requirements. He presented a portion of the plat map depicting the Aquidneck Corporate Park (exhibit 1) and a photo of the new Child & Family Services building (exhibit 2). He stated that his clients are concerned about the possibility of large buildings in the park. Lower buildings would enhance property values.

Mark Puleo, a resident of 19 Ocean View Dr. read a letter to the Board

(exhibit 3) including his concerns. He discussed the original development restrictions adopted for the Aquidneck Corporate Park. The abutters were not notified when the zoning for the park changed to OP. The impacts on the neighborhood should be considered, and the possibility of graduated height limits should be considered.

Mary Newman, a resident of 38 Ocean View Drive, stated that protecting view from her property is her primary concern. She stated that at the time she was purchasing her home the previous building/zoning official assured her that the building height limit in the corporate park was 30 feet. Taller buildings in the park would reduce property values in the abutting neighborhood.

A resident of 27 Ocean View Drive stated that the impacts on residential properties should be considered. She referenced the findings of a report previously provided to the board by appraiser James Houle, dated October 6, 2008. The current height limit is permissive. The town has rezoned commercial properties elsewhere to protect residential properties. She discussed the surrounding residential development pattern.

Andrew Galvin of CB Richard Ellis stated the he is the leasing agent for 150,000 square feet of building space in the Aquidneck Corporate Park. He stated that there is a low vacancy rate on the island for office space, which limits the ability to site new businesses. The Town should work to accommodate growth. Reducing the building height limit in the park with limit the potential growth and adversely impact commercial property values.

Steve Kirby of Marketplace properties stated that he represents the

owners of the buildings in the corporate park. He stated that there is a low office vacancy rate on the island. Business are forced to leave the island due to the lack of available space. He cited the Corporate Place development off West Main Rd., which was partial developed for residential use, as a mistake which eliminated the potential of new office development. He cited the efforts of the town and the Chamber of Commerce to invest approx \$1.8 million in infrastructure improvements in the Aquidneck Corporate Park as positive. Reducing the building height limits would send the wrong message.

Vicky Tarsagian, an owner of property in the Aquidneck Corporate Park, stated that she is concerned about the impact on property values in the park if height limits are reduced. She cited the 40' height limit in other commercial districts and the 35' height limit in residential districts. More than 30' building height is need to build two stories needed by one of her tenants.

Richard Casten, an owner of property in the Aquidneck Corporate Park, stated that his is a one-story building, and the proposal would likely not impact his property. He suggested that primarily concern is regarding development at higher elevations in the park.

Attorney David Martland, representing Gene Goldstein and other property owners in the Aquidneck Corporate Park, stated that state law does not permit regulation for the purpose of protecting private views. There must be a public purpose for such restrictions. This area has not been designated by the town for protection of public views. The proposal is not consistent with the goal of the Middletown Comprehensive Plan to maximize development in existing developed

areas. Providing for increased building lot coverage would not compensate for the reduction in building height. Office uses prefer to have windows. Larger footprint buildings creates undesirable interior space. He noted that in the original development regulations for the park, there was no building height limit. The regulations stated that buildings greater than 30' in height required Town Council approval. He stated that with the adoption of the OP district, the current 40' height limit was imposed and the number of allowed uses in the park was significantly reduced. The OP district is the most restrictive zoning district in town in terms of the number uses that are allowed. If the 30' height limit is adopted it would be the most restrictive height limit in the town. The Town's development plan review process is the proper mechanism to address potential impacts of new development. Mr. Adams asked if the Planning Board could provide a recommendation to the Town Council that parking standards be reviewed.

Mr. Wolanski stated that the request of the Town Council is for a recommendation on the proposed zoning amendment as presented by the proponent, though additional comments could be provided.

Mr. Weber stated that after hearing the testimony and the information provided during the discussions he could not support the proposed amendment. He understands the concerns of the abutters, but the corporate park was developed prior to the development of the abutting residential neighborhood. The corporate park is the economic engine for the town and is the location for new quality jobs. The town currently has development plan review procedures and



commercial development design standards in place to address impacts on abutting properties.

Motion by Mr. Adams, seconded by Mr. Eckhart, to recommend to the Town Council against adopting the proposed amendment.

Ms. Lavine stated that she is concerned with the appearance of commercial development in town and the potential impact of new development on the character of the community.

Vote: 3-1-0, with Ms. Lavine voting in opposition.

#### **E. Subdivisions.**

1. Public Informational Meeting (continued from November 12, 2008) - Peter Gallipeau (Saltwood Farm), Proposed 14-lot Subdivision, Plat 126, Lots 4, 217, 218, 219, Master Plan Submission

Town Solicitor Frank Holbrook recused himself from the discussion. Mr. Jackson served as solicitor on this matter.

Mr. Weber asked Mr. Gallipeau if he wished to continue his testimony from the previous meeting. He advised that speakers refrain from repeating the testimony already provided to the board.

Mr. Gallipeau stated that the connection of the Bailey Ave. to Sachuest Drive by the proposed new roadway is required by town regulations and is supported by the Middletown Comprehensive Plan and town staff. It will provide for two means of access to the proposed development as well as the abutting neighborhoods. There would be no benefit provided by considering a conventional plan of development. He noted the abutting property owners on the west side of his property have expressed support for the plan. He referenced six exhibits provided to the board: list of homes with no means of

access from other streets (ex. 1), copy of page VII-36 from the Middletown Comprehensive Plan, which discusses the need for conservation development (ex.2), petition (ex. 3), copy of goal and policy from the Circulation element of the Middletown Comprehensive Plan relating to need for alternative access for new development (ex.4), copy of goal and policy from the Circulation element of the Middletown Comprehensive Plan relating to development of cul-de-sacs, and a list of cul-de-sacs in town(ex.5), copy of page 35 from the Middletown subdivision regulations relating to section 501, street arrangement (ex. 6).

Kevin Brown, a resident of 8 Sachuest Drive, stated that he likes the idea of conservation development, but this location is not appropriate for such development. The yield formula overstates the development potential. The land area used is not consistent with the actual lot areas. He stated that he is concerned with the possible problems created if septic systems and wells were proposed. The towns definition of developable land area should exclude the area of the RIDEM required 50' buffers from flagged wetlands. The Board should consider the neighborhood and required a buffer between the development and the surrounding neighborhood. A better design for the development might be possible if the 10-step process is followed. Mr. Wolanski stated that discrepancy with the lot area is due to the inclusion of the area of land identified as the Bailey Ave. right-of-way. Regarding the yield formula and the definition of developable land, these are regulations currently in place and the board and applicant are bound by these regulations.

**Mr. Gallipeau stated that the 10-step design process was used in developing the plan. He has complied with the regulations and the use of the yield formula. A yield plan was also provided. He stated that some of the points referenced by Mr. Brown as goals of development are actually included in the list of purposes for the adoption of the conservation development regulations and are not to be applied to a particular development.**

**Mr. Adams asked if the zoning ordinance definition for developable lot area should be revised.**

**Mr. Wolanski stated that that could be a separate discussion, but the current application would not be affected by a subsequent amendment to the requirements.**

**There was discussion of the ownership of Bailey Ave. in the area of the proposed development.**

**Mr. Jackson stated that he is reviewing the documentation on the ownership of that portion of Bailey Ave. Once he provides an opinion on the ownership of subject area, the Planning Board could choose to proceed with the review based on the opinion.**

**Earl Trickey, a resident of 1 Sachuest Drive, stated that the town should address the question of ownership and drainage on the portion of the Bailey Ave. abutting his property.**

**Martha Koziara, a resident of 8 Miller Street, stated that she was expressing the concerns of herself and some of her neighbors. She provided photos depicting flooding conditions on properties fronting on Bailey Ave., and discussed for concern for drainage control.**

**Mr. Weber stated that at master plan stage of review the applicant is**

not required to provide drainage plans and calculations. Those issues will be addressed at the preliminary plan stage of review.

Ms. Koziara read and submitted a letter from Chris Angelone, owner of property at 62 Bailey Ave., dated December 10, 2008.

Sam Howell, a resident of 110 Sachuest Way, stated that the proposed plan is flawed. Residents in the area that he has talked to prefer that the land be developed in a conventional manner.

Mary Sheppard, a resident of Porter Rd., stated that she has walked the subject property and is in favor of the conservation design for the proposed development.

Mr. Weber stated that he would like addition time to consider the information that has been provide. He would also like the entire board to be present to consider the matter. He suggested that the matter be continued to the January meeting and the in the meantime the abutters and Mr. Gallipeau meet to discuss the possibility of compromise on some aspects of the plan. A workshop style meeting of the Board could be convened prior to the January meeting in there is new information to consider.

Mr. Eckhart expressed a desire to compare the attributes of the alternative plans for development of the property.

Mr. Wolanski stated that there is just one plan that has been presented to the Board for the proposed conservation subdivision development, as is required by the regulations. If an alternative plan is presented it could be reviewed, but the applicant is not required to present an alternative plan.

The applicant and the abutters were advised to contact the Planning

**Director once they have scheduled a meeting.**

**Motion by Adams, seconded by Mr. Eckhart, to continue the matter to the Board's January 14, 2009 meeting. Vote: 4-0-0.**

**2. Peter Gallipeau, Request for conceptual review of proposed minor subdivision of land fronting on Paradise Ave. and Cross Country Lane. Plat 120, Lot 97.**

**Town Solicitor Frank Holbrook recused himself from the discussion. Mr. Jackson served as solicitor on this matter.**

**Mr. Gallipeau stated that he would like the Board to consider the plan as presented at the prior meeting.**

**Attorney Robert M. Silva, representing an abutting property owner, McGeough, stated that his client is interested in acquiring a portion of the subject lot, provided the development of that lot would allowed closer to Paradise Ave. The Board could consider the concept of the conservation plan that would result in a development lot with less than the standard lot area and setback requirements for the zoning district in exchange for an area to protected as open space. The alternative would be for Mr. Gallipeau to seek a variance to allow for the reduced setbacks.**

**Mr. Weber stated that, as previously discussed, the proposal as a one-lot subdivision with a small area of open space resulting, is not consistent with the conservation subdivision concept.**

**Mr. Gallipeau stated that the primarily issue is the possible location of the dwelling on Lot 97.**

**There was discussion of the possibility of incorporating additional land area into the concept to result in additional open space**

**preservation, and reducing development potential of the McGeough property.**

**Mr. Silva stated that he would discuss that possibility with his client.**

**There was discussion of the options for designating the open space.**

**Mr. Wolanski stated that in a conservation subdivision, the open space must be contained on a separate lot.**

**Mr. Eckhart stated that the concept as presented does not conform with the purposes of conservation development.**

**By consensus the matter was continued to the January 14, 2009 meeting.**

#### **F. Additional Items.**

**1. Comprehensive Community Plan 5-year update –Discuss meeting schedule.**

**Mr. Wolanski stated that Town Council has agreed to the establishment of a comprehensive plan update committee. Once the committee is established, the first meeting will be scheduled.**

**2. Discuss potential amendments to the Middletown Zoning Ordinance, Sections 602 & 603 regarding allowed uses and dimensional requirements on the Limited Business (LB) zoning district.**

**Allen Shers was present.**

**Mr. Weber suggested that a workshop meeting be scheduled after the holidays to discuss options to address the proposal submitted by Mr. Shers.**

**By consensus the matter was continue to the January 14, 2009 meeting.**

**3. Development Plan Review - Victor Ruggeri, Proposed tradesman center consisting of two 3,600 sq.ft. buildings. Vierra Terrace, Plat 113, Lot 105C**

**The applicant and his attorney, Jeremiah Lynch, Esq., were present.**

**Mr. Lynch indicated that his client is willing to enter into a road maintenance agreement with the town to require his client to maintain adequate access to the subject property. He continues to work to secure the necessary easement to allow drainage to enter to the town system located on the high school property.**

**There was discussion of the waivers from the development standards that are requested.**

**Mr. Lynch indicated that the request of the Fire Chief for the installation of new fire hydrant, and the required water main, would be excessive. Other properties in the area have been developed without the requirement to extend the water main and provide a hydrant.**

**Mr. Wolanski was asked if the Planning Board development plan regulations require the installation fire hydrants.**

**Mr. Wolanski stated that the regulations do not require installation of fire hydrants.**

**Motion by Mr. Eckhart, seconded by Mr. Adams to grant the request waivers from the development regulations and to approve the plan subject to the following conditions:**

**1. The site drainage plan and calculations must be reviewed by the Town Engineer, and revised to his satisfaction prior to the issuance of building permits.**

**2. The drainage plan includes a proposed connection to the**

**town-owned drainages system at Middletown High School. Necessary easement(s) and approvals must be secured prior to the granting of building permits.**

**3. Vierra Terrace is an unimproved public right of way. It is not maintained by the Town. Given the preexisting development on the road the TRC determined that it would not be appropriate to required this developer to construct a road to current town standards. Alternatively, the applicant has been asked to enter into a maintenance agreement with the town to requirement that the owner maintain the road and drainage facilities associated with the development. Adequate access to the site for emergency vehicles must be maintained. Recording of such agreement, subject to the approval of the Town Solicitor, should be a condition of approval.**

**Vote: 4-0-0**

#### **4. Discuss status of draft inclusionary housing ordinance**

**Mr. Wolanski stated that he has discussed the issue with local real estate expert Paul Hogan, who has provided recommendations that will be incorporated into a revised draft.**

**By consensus the matter was continued to the January 14, 2009 Planning Board meeting.**

### **3. New Business**

#### **A. Subdivisions**

**1. Bancroft Partners, Administrative Subdivision Plan, Tuckerman Ave. Plat 122, Lots 123, 124, & 127.**

**Attorney Robert M. Silva represented the applicant. The attorney for an abutting property owner was unable attend the meeting, and**



**therefore Mr. Silve requested that the matter be continued.**

**Motion by MR. Eckhart, seconded by Mr. Adams, to continue the matter to the to the January 14, 2009 Planning Board meeting. Vote: 4-0-0**

## **B. Additional Items**

**1. Peter Gallipeau - Request to discuss procedure for drafting and approving Planning Board decisions.**

**By consensus to the matter was referred to the Town Solicitor for review and recommendation.**

## **Additional New Business**

**Mr. Weber discussed a concern regarding the traffic impacts of the Dunkin' Donuts store located at East Main Rd. He suggested that a review of the traffic patterns on the site and adjacent properties be completed by an engineer to determine possible solutions. Specifically, one goal would be to provide direct access for traffic exiting Dunkin' Donuts to the traffic signal at Aquidneck Ave.**

**Mr. Wolanski stated that such a study could be completed by the town's consulting engineer, PARE Corporation if funding is authorized by the Town Council.**

**Motion by Mr. Adams, seconded by Mr. Eckhart, to authorize the chairman to send a letter to the Town Council requesting authorization of the use of funds to study the issue. Vote: 4-0-0**

**Motion by Mr. Adams, seconded by Mr. Eckhart, to adjourn. Vote: 4-0-0**

**The meeting adjourned at 10:15pm**